



DEPARTMENT OF LAW  
OFFICE OF THE  
**Attorney General**  
STATE CAPITOL  
Phoenix, Arizona 85007

BRUCE E. BABBITT  
ATTORNEY GENERAL

August 10, 1978

Merlin K. DuVal, M.D., Chairman  
State Health Planning Advisory Council  
Arizona Department of Health Services  
1740 West Adams Street  
Phoenix, Arizona 85007

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**ARIZONA ATTORNEY GENERAL**

Re: 78-214 (R78-96)

Dear Dr. DuVal:

In your letter of March 31, 1978 you requested our advice on the following questions:

1. Since State law designates the local planning agencies to carry out certificate of need and rate review programs for their local service area, is the local agency legally an agency of State government?
2. In the event a law suit is lodged against the local agency, will the State assist in the defense of the agency and indemnify agency personnel and governing board members for any personal loss arising from the law suit?
3. What is the role and responsibility of State government in providing local agencies with the legal support, or the assistance and dollars required for legal services resulting from the implementation of mandated functions? What is the State's liability and status as a proper party to suits relating to carrying out this function and resulting appeals?

Your inquiry concerning whether local authorized agencies are State Agencies when they administer the certificate of need laws is currently being litigated in American Medical International, Inc. v. State Health Planning Advisory Council - Health Systems Agency of Southeastern Arizona, Inc., Civ. No. 165724 (Tucson). It is the policy of this Office not to answer an opinion request where the question asked is in litigation and may be judicially determined.

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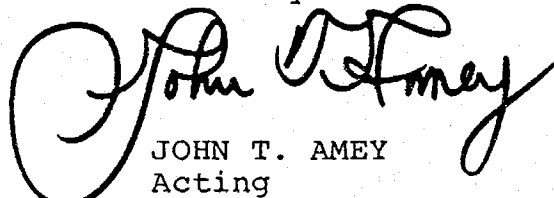
Mr. Merlin K. Duval  
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Your remaining questions also cannot be answered without the benefit of the AMI Court's determination on the local planning agency's legal status. This Office, therefore, cannot respond to your opinion request until such time as the AMI litigation on that issue is finally concluded.

We will inform you when the opinions and findings in the above-referenced case are published and available for review.

Very truly yours,

JOHN A. LASOTA, JR.  
Attorney General



JOHN T. AMEY  
Acting  
Attorney General

JTA:ls